HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.6499 of 2006
Date of decision : 5.12.2006.

Kapil Dev Sharma and another .....Petitioners

versus

Pala Ram and others .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.J.K.Goel, Advocate for the petitioners.

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ORDER

HEMANT GUPTA, J. (Oral)

The challenge in the present revision petition is to the order dated 21.11.2006, passed by the learned trial Court, whereby an application filed by the plaintiff-petitioners for consolidating their suit alongwith another suit filed by Pala Ram against Jat High School, was dismissed.

It is pointed out that learned counsel for the defendants have stated before the learned trial Court itself that they have no objection if the suits are consolidated. But still the learned trial Court declined the application for consolidation on the ground that the property in both the cases is not the same.

Learned counsel for the petitioners has referred to the plaint of both the suits, appended with the revision petition. In the suit filed by Mange Ram Sharma, plaintiff-petitioner, the declaration has been sought in respect of land measuring 201 kanals, 2 marlas on the ground that the plaintiff is the lessee in possession of the land for 99 years in terms of the

registered lease deed dated 15/16.10.1973. In the other suit filed by Pala Ram, it has been pleaded that the agricultural land measuring 201 kanals, 2 marlas was taken on lease by the plaintiffs in the name of Mange Ram who constituted a Joint Hindu Family in the year 1973. Subsequently, there was a family settlement on 27.2.1989 and the land was transferred in favour of the plaintiffs.

In view of the said pleadings, it is apparent that the dispute, in both the suits, pertains to the land measuring 201 kanals 2 marlas. As a matter of fact, the issues in the case of Pala Ram would arise after the decision in the suit of Mange Ram in respect of the said property. Though the parties may be different, but the subject matter of both the suits is of the same land. Therefore, it would be appropriate for the learned trial Court to decide both the cases together so as to avoid possibility of any contradictory judgment.

Consequently, the present revision petition is allowed. The order passed by the learned trial Court is set-aside. Both the suits are ordered to be decided together. However, it shall be open to the learned trial Court to record separate evidence in both the suits.

Copy of the order be given dasti on payment of usual fee.

(HEMANT GUPTA)
JUDGE

December 5, 2006
**mohinder*